

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

IN RE:	:	CHAPTER 13
BENEDICT V. SOKOLOWSKI,	:	
&	:	
LYNDA J. SOKOLOWSKI,	:	
DEBTORS	:	DOCKET NO.: 5:18-bk-03468-JJT
COMMONWEALTH OF PENNSYLVANIA	:	OBJECTION TO PLAN
DEPARTMENT OF REVENUE,	:	
MOVANT	:	
v.	:	
BENEDICT V. SOKOLOWSKI,	:	
&	:	
LYNDA J. SOKOLOWSKI,	:	
RESPONDENTS	:	RELATED TO DOCKET NO.: <u>54</u>

PENNSYLVANIA DEPARTMENT OF REVENUE'S  
OBJECTION TO DEBTORS' SECOND AMENDED CHAPTER 13 PLAN

NOW COMES, the Commonwealth of Pennsylvania, Department of Revenue (“Department”), by and through its Office of Chief Counsel, and Counsel Joseph J. Swartz, and objects to the confirmation of the above-captioned Debtors’ Second Amended Chapter 13 Plan (“Plan”) filed on July 3, 2019, Docketed at Number 54, as authorized by 11 U.S.C. § 1324(a), for the following reasons:

1. The Department objects to the confirmation of the Plan on the grounds that the Debtors have not filed all appropriate prepetition tax returns for the four years preceding the filing of his bankruptcy petition, as required by 11 U.S.C. § 1308(a), thereby prohibiting the Department from fully determining its claim.
2. The Department’s records show that the Debtors have not filed their PIT Returns for the 2014 through 2017 tax years. Debtors’ Plan should not be confirmed because of these

delinquent tax returns. In fact, 11 U.S.C. § 1308(a) requires Debtors to file said returns prior to the first scheduled date for the meeting of creditors. However, as of the date of the filing of this Objection, said returns had not been filed. Accordingly, Debtors' Plan cannot be confirmed. 11 U.S.C. § 1325(a)(9).

a. Moreover, these tax returns need to be filed for the Department to determine whether, and to what extent, there are outstanding tax liabilities, as it would alter the amount of the Department's unsecured priority and nonpriority claims. Upon the filing of the delinquent returns, the Department will amend its Proof of Claim, as necessary.

3. The Department's records also show that the Debtors have never filed PIT Returns with the Commonwealth of Pennsylvania. The Department needs the Debtors to file past-due prepetition state tax returns as well, in order for the Department to fully and accurately calculate its claim.

4. By letter dated August 28, 2018, directed to the Debtors' Counsel, the Department notified Debtors, and the Trustee, of the past-due prepetition state tax returns and requested that the delinquent tax returns, for PIT for the 2014 through 2017 tax years, be filed in accordance with 11 U.S.C. § 1308. Upon review, as of the Date of this Objection, said returns have not been filed. Debtors' Plan cannot be confirmed absent the filing of these returns or Debtors providing evidence or documentation supporting why such returns need not be filed.

a. The Department requests that, hereinafter, a copy of any and all past-due prepetition tax returns filed by Debtors, along with all corresponding documentation and schedules, be submitted to the undersigned counsel at the following address:

Pennsylvania Department of Revenue  
Office of Chief Counsel  
P.O. Box 281061  
Harrisburg, PA 17128-1061  
Attn: Joseph J. Swartz, Esq.

5. Because of Debtors' unfiled tax returns, the Plan does not adequately provide for the payment of the Department's claim. The Department cannot file a complete and liquidated claim against the Debtors until the delinquent prepetition tax returns are filed and the Department determines the amount of tax principal and prepetition statutory interest that is outstanding.

6. For the foregoing reasons, Debtors' Chapter 13 plan does not comply with the applicable provisions of the Bankruptcy Code and cannot be confirmed. *See* 11 U.S.C. § 1325(a).

WHEREFORE, the Department respectfully requests that the confirmation of the Debtors' Chapter 13 Plan be DENIED unless and until (1) the Debtors file all delinquent tax returns, and the Department is allowed adequate time to review the filings and amend its Proof of Claim as necessary; and (2) the Debtors submit an Amended Plan which provides for the full payment of the Department's claim(s) in the proper classification(s) and amount(s), including the payment of any tax due for the delinquent tax returns.

Respectfully submitted by,

DATE: July 9, 2019

By: /s/ Joseph J. Swartz  
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